



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

January 17, 1974

The Honorable Fred P. Holub
County Attorney
Matagorda County
Bay City, Texas 77414

Opinion No. H- 216

Re: Circumstances under
which persons under 16
years of age may marry,
if at all

Dear Mr. Holub:

You have requested our opinion "as to whether or not under the new Family Code a person under the age of sixteen (16) years can obtain a marriage license from the County Clerk. "

In our opinion the Family Code allows a person under 16 years of age to obtain a marriage license and to marry only if a district judge has ordered a waiver of the age requirement (16 years of age) "for good cause shown." Section 1.51(c), *infra*.

The Legislature, 1973, amended provisions of the Family Code with respect to marriage licenses (Acts 1973, 63rd Leg., ch. 577, p. 1596). Amended § 1.07 provides in part:

"(a) The county clerk may not issue a license to the applicants if:

"

"(3) either applicant is under 16 years of age and the waiver of age requirements has not been ordered under the provisions of Section 1.51(c) of this code;"

Section 1.51 refers to "Age Requirements." Subsection (a) provides: "A person under 16 years of age may not marry." However, subsection (c) provides:

"Upon petition in a district court in the name of the person seeking the waiver, the court may order the waiver of the age requirement prescribed in Subsection (a) for good cause shown."

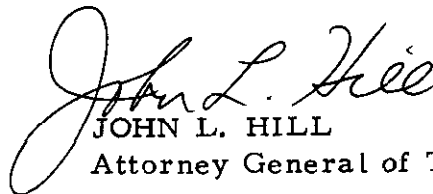
Section 2.41 provides that the marriage of persons under 16 years of age is voidable, "unless a waiver of the age requirement has been ordered."

It is therefore plain that a district judge, upon petition and a showing of good cause, and only then, may order the waiver of the 16 year age requirement and that, with such an order, a person under the age of 16 years of age may obtain a marriage license from the county clerk in the state of Texas.

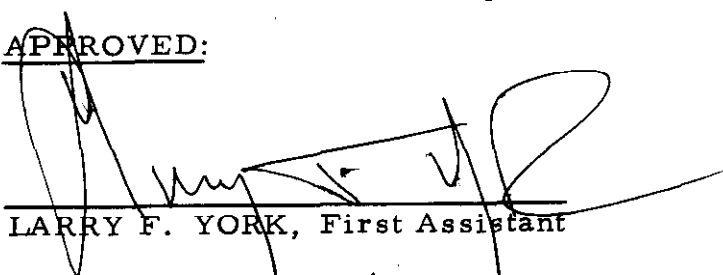
SUMMARY

Only upon waiver of the age requirement by a district court upon proper petitions and proof of good cause may a person under the age of 16 obtain a marriage license in the state of Texas.

Yours very truly,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee